

Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Group Art Unit: 3727

Examiner: Kopsidas, N

P.D. File No.: 30-3744

In re Application of: IGOR PALLEY ET AL.

Serial No.: 08/533,589

Filed: September 25, 1995

For: BLAST RESISTANT AND BLAST DIRECTING CONTAINERS AND
METHODS OF MAKING

Petersburg, VA 23804
June 5, 1998

Asst. Commissioner of Patents
Washington, DC 20231

AMENDMENT

Sir:

Responsive to the Examiner's Office Action mailed December 5, 1997,
please enter the amendments which follow on the above-identified patent
application.

IN THE SPECIFICATION:

On page 11, line 23, please add the following after "art.": --As with
the basic design, a weight/load bearing frame 17 (see FIGURE 1G) may
optionally be nested within container 10' in the event that container 10' is
insufficiently rigid for bearing the items to be loaded therein. Inner band 11 is
slipped over the frame initially, and then assembly proceeds as earlier
discussed. Frame 17 may be made from metal or structural composite rods
designed in a way to optimize the load bearing capacity of the structure and
to minimize container weight. Alternatively, a rigid inner liner or band can be
constructed and used, as discussed, infra.--

REMARKS

Accompanying this response is a petition for an extension of time.

Applicants note with appreciation that claims 37, 38 and 42-57 are now under consideration as part of the elected Species II.

The specification has been amended on page 11 to add description of the rigid support structure (which can be a rigid inner band) in conjunction with Species II. Support for this amendment is found on page 11, lines 4-10, as well as on page 19, lines 11-29. Since no new matter has been introduced, Applicants respectfully request entry of this amendment.

The Examiner has objected to the drawings under 37 CFR 1.83(a) for failing to show the rigid support structure of Species II. Applicants respectfully traverse this rejection and request its withdrawal. The specification has been amended on page 11 at line 23 to include discussion of and reference to the FIGURE 1G frame 17 which can optionally be nested within the Species II container 10'. It is respectfully submitted that the rigid support structure is now properly shown. In the event that the Examiner prefers, Applicants will gladly submit a FIGURE 2D, which in all other respects will be identical to FIGURE 1G, and make corresponding amendments to the verbiage accompanying the description of Species II. Thus, the claimed Species II rigid support structure is shown. Furthermore, there is ample discussion of the optional support structure on page 19 at lines 11-29. Nonetheless, Applicants will gladly submit, with the Examiner's approval, a FIGURE 2D, which in all other respects will be identical to FIGURE 1G, with appropriate descriptive verbiage. It is submitted that this will not introduce new subject matter.

The specification has also been objected to under 35 CFR 1.71, because it does not adequately describe the frame of Species II. Applicants respectfully submit that this objection has been overcome by the amendment to page 11, as discussed above, and therefore request its withdrawal.

Claims 9 and 10 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner states that the structure of the band of the rigid support frame is unclear, and further that from the drawings and specification the support structure does not

appear to have a band or be in the shape of a band. Applicants respectfully traverse these rejections and request their withdrawal as inappropriate. With reference to page 19, paragraph at lines 11-29, it can be seen that the frame may be comprised of a rigid inner liner or band. The definition of "rigid" with respect to a band is found in the paragraph bridging pages 19-20 of the specification. A rigid inner band is contemplated as a support structure for containers requiring same. In this regard, inner band 11 depicted in FIGURE 2B can be made rigid across its faces and simultaneously function as the load or weight bearing frame and inner band.

Claims 12-32, 34-36, 43-57 and 74-76 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of USP 5,545,455 to Prevorsek et al in view of USP 674,009 to Lewis. Applicants respectfully traverse this rejection and request its withdrawal. There is no motivation to combine these two references. Although both refer to containers, the Lewis container is a knockdown paper box formed of materials from the turn of the century. Prevorsek et al, on the other hand, details a composite material and broadly refers to its use in forming flat panels which are wrapped and stitched to control delamination. Although the composite can be used in the fabrication of blast resistant articles such as containers, there are precious few details as to how the container should be constructed and why. This deficiency is not met by Lewis since Lewis cannot and does not address the "why" of the construction for blast resistance.

Nonetheless, Applicants are willing to proffer the accompanying terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) with respect to Prevorsek et al, in the event that the Examiner wishes to limit the rejection to this reference. Please note that Applicants have no ownership interest in the Lewis reference.

Applicants also respectfully disagree with the Examiner's position that the outermost band of the Lewis container is substantially seamless, as is required by Applicants' claimed invention. See Applicants' specification on page 22 at lines 8 - 13 wherein it is indicated "that the band is seamless

across each edge joining adjacent faces for more than at least one full wrap . . . and also that at any given point on the band there is at least one wrap/layer that is seamless." (emphasis added) In other words, the outermost band is greater than at least one full wrap, i.e., greater than 360 degrees, and is seamless across each edge. This is a distinction with a difference. There is no weak line from one side of the outermost band to the other. The substantially seamless outermost band supports the inner bands whether a five sided strip is used to create a four sided inner band or otherwise. Lewis on the other hand shows bands whose ends do not overlap, but at best abut one another. The outermost/third band of Lewis is taped across a joint (i.e., across an edge), one of the weakest possible places to connect the two ends of the band for blast resistance. This connection across the joint (edge) is what keeps this outermost band of Lewis from being substantially seamless. It is also where the container will split when subjected to the force of a blast from within the container, and in this regard, cannot be deemed to be blast resistant.

Claims 1-6, 33, 37, 38 and 42 stand rejected under 35 USC 102(b) as being anticipated by Lewis, supra. A prior art reference must teach every element to anticipate a claimed invention. Lewis fails to do this since the third band A is neither blast resistant nor substantially seamless, as discussed above.

Claims 8, 9 and 11 stand rejected under 35 USC 103(a) as being unpatentable over Lewis in view of Rosenbloom, Jr. et al. Both of these references relate to collapsible containers; however, neither one of them teaches or suggests blast resistance or direction. It is respectfully submitted that they are inapposite to these claims, and this rejection should therefore be withdrawn.

Claim 10 stands rejected under 35 USC 103(a) as being unpatentable over Lewis in view of Rosenbloom, Jr. et al. as applied to claim 9 and further in view of Hall (USP 4,216,803). In light of the comments above, it is respectfully submitted that none of these references either teaches or suggests that the containers are blast resistant or that the outermost band is

both blast resistant and substantially seamless, and therefore, this rejection should be withdrawn.

Claims 12-32, 34-36, 43-57 and 74-76 stand rejected under 35 USC 103(a) as being unpatentable over Lewis in view of Prevorsek et al. This rejection is respectfully traversed and its withdrawal requested. There is absolutely no motivation for one of ordinary skill in the art of blast containment and direction to combine these two references based on the claims currently on file and under consideration. Lewis has absolutely nothing to do with blast containment. It is simply a collapsible cardboard/paper box. Note the date of issuance, i.e., 1901. It is respectfully submitted that one of ordinary skill in the art, even with the Prevorsek et al reference available, would not look to Lewis for container structure to enhance blast resistance. The substantially seamless outermost band (at least one full wrap in claim 74) of the claimed invention is different from the bands of Lewis. The Lewis bands must only abut, not overlap, and not cover the edges/joints as required by Applicants' claimed invention.

In view of the foregoing, it is respectfully submitted that the present claims 1-6, 8-38, 42-57 and 74-76 are now in condition for allowance. Applicants respectfully request that they be passed to issue. Should there be any unresolved issues regarding this application, Examiner Kopsidas is invited to contact the undersigned attorney at the telephone number shown below.

Respectfully submitted,
IGOR PALLEY ET AL.

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